

APPEAL NO. 032961
FILED DECEMBER 31, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 16, 2003. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 16th quarter. The appellant (self-insured) appeals, asserting that the hearing officer's determination is contrary to the great weight of the evidence. The claimant responds, urging affirmance.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The hearing officer did not err in determining that the claimant is entitled to 16th quarter SIBs. The hearing officer determined that the claimant is so entitled based upon both satisfactory participation with the Texas Rehabilitation Commission (TRC) and her finding that the claimant sought employment each week of the qualifying period for the 16th quarter. At issue were whether the claimant's participation with TRC was "satisfactory" and whether his job search efforts constituted a good faith effort to find employment commensurate with his ability to work. These were questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). We have previously held that a claimant is satisfactorily participating with TRC if he or she is meeting the requirements of the Individualized Plan for Employment (IPE), despite the fact that classes called for in the IPE did not start during the current qualifying period. See Texas Workers' Compensation Commission Appeal No. 023229, decided February 4, 2003, and cases cited therein. In addition, the hearing officer was satisfied that the claimant had made a good faith effort to find employment during each week of the qualifying period. Complying with Rule 130.102 in either of these ways would be sufficient to entitle the claimant to 16th quarter SIBs. In view of the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**COUNTY JUDGE
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Michael B. McShane
Appeals Panel
Manager/Judge

CONCUR:

Robert W. Potts
Appeals Judge

Margaret L. Turner
Appeals Judge